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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
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18 JOSE RAMIREZ, LUIS GOMEZ, and
MARCK MENA ORTEGA on behalf of
19 themselves and all persons similarly
situated,

20 Plaintiffs,

21 v.

22 GHILOTTI BROS., INC., a corporation;
23 and DOES 1 to 50, inclusive,

24 Defendants.

Case No. C-12-4590-CRB

**PLAINTIFFS' NOTICE OF MOTION
AND UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT AND
INJUNCTIVE RELIEF**

Judge: Hon. Charles R. Breyer

Date: September 27, 2013

Time: 10:00 a.m.

Ctrm.: 6, 17th Floor

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 27, 2013 at 10:00 a.m., if the Court grants the parties' request to shorten time, or as soon thereafter as the matter may be heard, Plaintiffs Jose Ramirez, Luis Gomez, and Marck Mena Ortega, on behalf of themselves and all persons similarly situated (collectively, "Plaintiffs"), will and hereby do move this Court for an order pursuant to Federal Rule of Civil Procedure 23 granting Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement and Injunctive Relief (the "Motion"). The Stipulation to Class Action Settlement will fully resolve this putative class action and will establish a fund of \$950,000 to pay the claims of approximately 225 Class Members on their claims that Defendant Ghilotti Bros., Inc. ("GBI") violated California and federal law by failing to pay for all hours spent loading and unloading GBI trucks, failing to provide required meal and rest breaks, and failing to provide accurate pay statements.

Specifically, Plaintiffs' Motion seeks entry of the Proposed Order Granting Unopposed Motion for Preliminary Approval of Class Action Settlement and Injunctive Relief filed herewith, which:

- (1) grants preliminary approval of the settlement proposed by the parties, on the terms set forth in the Stipulation to Class Action Settlement attached as Exhibit 1 to the Joint Declaration of Gay Crosthwait Grunfeld and Wendy E. Musell in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement and Injunctive Relief ("Joint Declaration"), filed herewith;
- (2) certifies both the General Class and the Driving Laborer Sub-class for settlement purposes only;
- (3) appoints Jose Ramirez, Luis Gomez, and Marck Mena Ortega as Settlement Class Representatives;
- (4) appoints Rosen Bien Galvan & Grunfeld LLP and Stewart & Musell, LLP as Class Counsel for the settlement class;
- (5) approves the substance, form and manner of the Notice of Proposed Class

1 Action Settlement and Request for Exclusion, attached as Exhibits A and B
 2 (respectively) to the Stipulation to Class Action Settlement;
 3 (6) approves the proposed method of disseminating the Class Notice, both by direct
 4 mailing and publication;
 5 (7) appoints Simpluris as Settlement Administrator;
 6 (8) sets forth the process and deadlines by which Class Members may object to the
 7 proposed settlement or submit Requests for Exclusion;
 8 (9) preliminarily orders GBI, pursuant to the Stipulation to Class Action Settlement,
 9 to develop a procedure for tracking laborer time and to refrain from retaliation, and
 10 further preliminarily orders GBI, pursuant to Plaintiffs' motion, to comply with
 11 IWC Order 16-2001;
 12 (10) schedules a final fairness hearing where the Court will determine whether to
 13 grant final settlement approval, and will consider Plaintiffs' forthcoming motion for
 14 attorneys' fees, costs, and incentive payments to Class Representatives; and
 15 (11) stays the proceedings.

16 As explained more fully in the accompanying Memorandum of Points and
 17 Authorities, the proposed settlement meets the standard for preliminary approval and is in
 18 the best interests of the Class Members. Plaintiffs' Motion is based on this Notice of
 19 Motion; the accompanying Memorandum of Points and Authorities; the Joint Declaration
 20 and exhibits filed therewith; the Supplemental Joint Declaration of Gay Crosthwait
 21 Grunfeld and Wendy E. Musell in Support of Plaintiffs' Unopposed Motion for
 22 Preliminary Approval of Class Action Settlement and Injunctive Relief Filed Under Seal;
 23 the Declarations of Jose Ramirez, Luis Gomez, and Marck Mena Ortega; the entire record

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1 in this case; any other papers filed in support of the Motion; as well as any argument of
2 counsel at the hearing, if necessary.

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4 DATED: September 13, 2013

Respectfully submitted,

5 ROSEN BIEN GALVAN & GRUNFELD LLP

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7 By: /s/ Gay Crosthwait Grunfeld

8 Gay Crosthwait Grunfeld

9 Attorneys for Plaintiffs